

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LORRAINE WHITE,

Plaintiff,

-against-

COMPLAINT

21 Civ. 1368

DENIS MCDONOUGH, as Secretary of Veterans Affairs,

Defendant.
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JURY TRIAL DEMANDED

Plaintiff Lorraine White, by her attorneys, Law Office of Gregory P. Mouton, Jr., LLC,
respectfully alleges:

NATURE OF THE ACTION

1. Since 2013, Ms. White is employed as Environmental Services Housekeeping at the Manhattan VA Medical Center where her job duties include cleaning bathrooms, mopping floors, cleaning rooms, and cleaning offices.

2. In or about October 2019, Anthony Charles became a supervisor. Since that time, Mr. Charles has embarked on a campaign of race-based and sexual harassment against Ms. White, aided and abetted by other supervisors and EEO personnel at Manhattan VA Medical Center.

3. This harassment has included Mr. Charles speaking about Ms. White's breasts in front of other employees and supervisors; rubbing his body against Ms. White's breasts; and putting his crotch and buttocks near Ms. White's face during meetings.

4. As set forth more fully herein, Ms. White brings claims for discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* ("Title VII").

JURISDICTION AND VENUE

5. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343, and 1367(a) and 42 U.S.C. § 2000e-5(f)(3).

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c).

JURY DEMAND

7. Ms. White demands a trial by jury in this action.

PARTIES

8. Plaintiff Lorraine White is a resident of the County of Kings, State of New York.

9. Ms. White is of Trinidadian heritage.

10. Defendant Denis McDonough is Secretary of the Department of Veterans Affairs (“VA”), with the VA being within the Executive Branch of the United States Government.

STATEMENT OF FACTS

11. Ms. White started working for the VA in or about October 2013 as Environmental Services Housekeeping at the Manhattan VA Medical Center located in New York, New York.

12. Ms. White’s job duties including cleaning bathrooms, mopping floors, cleaning rooms, and cleaning offices. Her job requires her to float between the various floors of the Manhattan VA Medical Center.

THE EVENTS OF OCTOBER 17, 2019

13. On October 17, 2019, at approximately 7 a.m., Ms. White went into the women's locker room where she has a locker.

14. To enter the locker room, one must pass through two separate doors.

15. While in the locker room, Ms. White felt someone else's presence in the room. When she looked up, she discovered that Anthony Charles, then a new supervisor, had quietly and without knocking entered the locker room through both doors and was now standing in the inner locker room doorway staring at her.

THE EVENTS OF OCTOBER 23, 2019

16. On October 23, 2019, Mr. Charles, in front of everyone, commented about the size of Ms. White's breasts in her tank top and told her that she needed to be more conservative, telling her that she needed to be more conservative and not walk around with all of that out.

17. Ms. White spoke with Elizabeth Allen, a supervisor, who was present, and asked her to talk to Mr. Charles because she felt disrespected and embarrassed. Ms. Allen smiled and responded that she had nothing to do with it.

THE EVENTS OF OCTOBER 25, 2019

18. On October 25, 2019, Ms. White went into the women's locker room at approximately 6:20 a.m.

19. While in the locker room, Ms. White observed that her belongings had been disturbed and rearranged.

20. Ms. White turned the chair that is in front of her locker and found a notebook that had been placed on the chair. She later discovered that the notepad belonged to Mr. Charles.

MS. WHITE'S EEO COMPLAINT ON OCTOBER 25, 2019

21. On October 25, 2019, Ms. White complained about Mr. Charles' actions to Timothy Patterson, the General Foreman.

22. After telling Mr. Patterson about Mr. Charles' actions, Ms. White told Mr. Patterson that she wished to file an EEO complaint against Mr. Charles. Mr. Patterson directed Ms. White to see Milagros Andino, an EEO officer.

23. Ms. White spoke with Ms. Andino, telling her about Mr. Charles' conduct and that she wished to file an EEO complaint. Ms. Andino instructed Ms. White to complete VA Form 119 in order to make an EEO complaint against Mr. Charles.

24. Ms. Andino accepted the completed document from Ms. White and told her that should would "handle it," as well as speak to Mr. Charles.

THE EVENTS OF NOVEMBER 2019

25. In order to get supplies and keys to do their jobs, the housekeeping staff must obtain them from a supply/attendance room on the 10th floor where the supervisors would hand out said supplies and keys, as well as take attendance. Each person enters the room while the next person waits in the doorway to be called in.

26. When it was Ms. White's turn to wait at the doorway to enter the room, Mr. Charles would leave the room, purposefully allowing his chest or arm to brush against Ms. White's breasts, although there was ample room for him to pass. This occurred at least three times per week in November 2019.

MS. WHITE'S EEO COMPLAINT IN NOVEMBER 2019

27. In or about the week of November 3, 2019, Ms. White met with her supervisor, Elizabeth Allen, and complained to her about Mr. Charles' actions, and that she wanted to make a further EEO complaint against him.

28. Ms. Allen asked Ms. White to see Ms. Andino.

29. Ms. White went to Ms. Andino and spoke with her about how all of Mr. Charles actions to that point, and how he was sexually assaulting and harassing her, and that she wanted to make a further EEO complaint against him.

30. Ms. Andino told Ms. White that she was looking into Ms. White's complaints.

VETERANS AFFAIRS DENIES MS. WHITE HER BONUS IN DECEMBER 2019

31. In November 2019, Ms. Allen informed Ms. White that she would receive a bonus in December 2019.

32. However, Ms. White never received said bonus.

33. Upon information and belief, Ms. White was denied her bonus as retaliation for her complaints against Mr. Charles.

THE EVENTS OF DECEMBER 2019

34. In December 2019, when Mr. Charles would see Ms. White walking down the hallway of the hospital, he would walk towards her and try to place his body against hers, although there was more than enough room in the hallway for two people to pass each other without physical contact. Ms. White would attempt to turn her body to avoid contact, at which time Mr. Charles would cause his arm to rub against Ms. White's breasts. This happened three or four times in December 2020.

35. There was also a time in December 2019 where Mr. Charles and Ms. Allen were both present. At that time, Mr. Charles pointed at Ms. White's breasts and said "What's going on up there?" Ms. Allen laughed and smiled at Mr. Charles' actions and statement.

36. During this month, Ms. White was, again, required to obtain work supplies and keys from supervisors in the supply/attendance room on the 10th floor. As noted above, each employee would enter the room, while the others waited their turn. When it was Ms. White's turn to wait at the doorway to enter the room, Mr. Charles would leave the room, purposefully allowing his chest or arm to brush against Ms. White's breasts, although there was ample room for him to pass. This occurred at least four times per week in December 2019.

MS. WHITE'S EEO COMPLAINT IN DECEMBER 2019

37. In or about the week of December 15, 2019, Ms. White met with Mr. Patterson and complained to him about all of Mr. Charles' actions and sexual harassment to that point, and that she wanted to make a further EEO complaint against him.

38. Mr. Patterson said he would handle Ms. White's complaint.

THE EVENTS OF JANUARY 2020

39. In early January 2020, Ms. White caught Mr. Charles staring at her breasts. When she asked him why he was staring at her breasts, he laughed, but did not respond otherwise.

40. During this month, Ms. White was, again, required to obtain work supplies and keys from supervisors in the supply/attendance room on the 10th floor. As noted above, each employee would enter the room, while the others waited their turn. When it was Ms. White's turn to wait at the doorway to enter the room, Mr. Charles would leave the room, purposefully allowing his chest or arm to brush against Ms. White's breasts, although there was ample room for him to pass. This occurred at least two times per week in January 2020.

MS. WHITE'S EEO COMPLAINT IN JANUARY 2020

41. During the first or second week of January 2020, Ms. White met with Mr. Patterson and complained to him about Mr. Charles' actions. She also asked what was going on with her complaints against Mr. Charles.

42. In response, Mr. Patterson asked if she had heard anything from EEO. Ms. White said that she had not, so Mr. Patterson directed Ms. White to see Ms. Andino.

43. Ms. White went and spoke with Ms. Andino, complaining to her about all of Mr. Charles' actions to that point, telling her that she had not received her bonus, and telling her that she wanted a further EEO complaint against Mr. Charles for his continuing actions.

44. Ms. Andino told her that the paperwork was in and that everything would be taken care of, but that she was not going to otherwise tell Ms. White what was happening in relation to her EEO complaints.

THE EVENTS OF FEBRUARY 2020

45. During this month, Ms. White was, again, required to obtain work supplies and keys from supervisors in the supply/attendance room on the 10th floor. As noted above, each employee would enter the room, while the others waited their turn. When it was Ms. White's turn to wait at the doorway to enter the room, Mr. Charles would leave the room, purposefully allowing his chest or arm to brush against Ms. White's breasts, although there was ample room for him to pass. This occurred at least three times per week in February 2020.

MS. WHITE'S EEO COMPLAINT IN FEBRUARY 2020

46. During the first or second week of February 2020, Ms. White met with Michael Taylor, the Assistant Chief, and Ms. Allen.

47. During that meeting Ms. White complained to Mr. Taylor and Ms. White about all of Mr. Charles' actions to that point, and that she wanted to make a further EEO complaint against him. During the meeting, Ms. White broke down in tears because of the ongoing harassment and its effects on her.

48. During the meeting Mr. Taylor called Ms. Andino and conveyed Ms. White's complaints to her and that Ms. White wished to file a further complaint against Mr. Charles.

49. After getting off the telephone with Ms. Andino, Mr. Taylor told Ms. White to stop crying because the situation was going to be taken care of immediately, and said that he was going to have a further discussion with Ms. Andino about Ms. White's complaints about Mr. Charles later that day.

THE EVENTS OF MARCH 2020

50. In March 2020, Ms. White stopped going to the 10th floor to get supplies and keys so as to avoid Mr. Charles from sexually assaulting her while she was doing so.

51. In March 2020, when Mr. Charles would see Ms. White walking down the hallway of the hospital, he would walk towards her and try to place his body against hers, although there was more than enough room in the hallway for two people to pass each other without physical contact. Ms. White would attempt to turn her body to avoid contact, at which time Mr. Charles would cause his arm to rub against Ms. White's breasts. This happened three times in March 2020, including twice in one day.

MS. WHITE'S EEO COMPLAINT ON MARCH 21, 2020

52. On March 21, 2020, Ms. White met with Ms. Andino to complain about all of Mr. Charles' continuing actions to that point, that she wanted to make a further EEO complaint against him, and to ask about the status of her EEO complaints against Mr. Charles.

53. Ms. Andino told her not to worry and that she was taking care of it.

THE EVENTS OF APRIL 2020

54. For four days in a row in April 2020, when Mr. Charles would see Ms. White walking down the hallway of the hospital, he would walk towards her and try to place his body against hers, although there was more than enough room in the hallway for two people to pass each other without physical contact. Ms. White would attempt to turn her body to avoid contact, at which time Mr. Charles would cause his arm to rub against Ms. White's breasts.

55. Upon information and belief, Ms. Andino was not physically present at the Manhattan VA Medical Center in April 2020.

THE EVENTS OF MAY 2020

56. In May 2020, the staff began having “huddles” every morning. During each of those meetings, Mr. Charles would stand just in front of and close to Ms. White with his buttocks close to Ms. White. After he would finish speaking, he would turn around and zip up his pants in her face before staring at her for the rest of the meeting.

MS. WHITE’S EEO COMPLAINT THE WEEK OF MAY 10, 2020

57. In or about the week of May 10, 2020, Ms. White met with Ms. Allen and complained about Mr. Charles’ actions to that point, and that she wanted to make a further EEO complaint against him.

58. Ms. White also asked Ms. Allen about the status of her complaints against Mr. Charles.

59. Ms. Allen laughed and told Ms. White that she wanted her to stop complaining and get along with Mr. Charles because Ms. White is her employee, and Mr. Charles is her friend.

60. Ms. White stated that she is not getting any help and that Ms. Allen should, as a woman, understand that she shouldn’t have to tolerate sexual harassment and assault at work, and that Ms. Allen was even present when Mr. Charles spoke about her breasts.

61. Ms. Allen laughed again and said that Ms. White and Mr. Charles need to just get along because they are family given their similar Trinidadian heritage. She then directed Ms. White to go home.

MS. WHITE'S EEO COMPLAINT ON MAY 20, 2020

62. On or about May 20, 2020, Ms. White completed another VA Form 119 to make another EEO complaint about Mr. Charles.

63. Ms. White complained, among other things, that on May 18, 2020, Mr. Charles zipped up his pants in front of her face again during the morning huddle and then, later, called her a “ghetto girl”.

64. Similarly, Ms. White complained that, among other things, on May 20, 2020, Mr. Charles zipped his pants up in front of her face again during the morning huddle. Ms. White also complained that she had repeatedly complained about Mr. Charles’ actions towards her and absolutely no actions had been taken against him or to address her complaints.

65. On or about May 20, 2020, Ms. White completed a second VA Form 119 to make another EEO complaint about Mr. Charles.

66. In that report, Ms. White complained that she felt unsafe and uncomfortable working around Mr. Charles, and that she believed her verbal and written complaints about her actions were being ignored.

67. She complained that Mr. Charles repeatedly would zip his zipper up in front of her, and that he would repeatedly walk past very closely and brush his arm against her breasts.

68. On or about May 20, 2020 Ms. White completed a third VA Form 119 to make another EEO complaint about Mr. Charles.

69. Ms. White complained, among other things, that she felt sexually harassed by Mr. Charles, and that the sexual harassment had been ongoing for a long time. She expressed in the complaint that she had complained to Mr. Patterson and Ms. Allen about Mr. Charles’ actions, but

that her supervisors continued to force Ms. White to work with Mr. Charles even though he was constantly sexually harassing her.

MS. WHITE'S JUNE 2020 MEETING WITH THE CHIEF OF VETERANS AFFAIRS

70. In June 2020, Ms. White met with Carl Eggen (Chief), and told him about all of Mr. Charles' actions to that point, and that she wanted to make a further EEO complaint against him. Mr. Eggen stated that he had not heard about any of the allegations. Mr. Eggen said to give him a week to investigate the matter.

71. Ms. White has never been provided any written notices pursuant to 29 C.F.R. § 1614.105(b)(1).

72. Ms. White has never been advised of any of the information required pursuant to 29 C.F.R. § 1614.105(b)(2).

73. Ms. White has never been provided any written notices pursuant to 29 C.F.R. § 1614.105(d).

74. On July 15, 2020, Ms. White filed her formal Complaint of Employment Discrimination by submitting said complaint on Form 4939 to the VA, Office of Resolution Management.

75. It has been more than 180 days since the submission of the formal complaint and no agency final action has been taken.

FIRST CAUSE OF ACTION

Hostile Work Environment under Title VII

76. Ms. White repeats and realleges each and every allegation as if fully set forth herein.

77. Defendant conspired to and did adversely impact Ms. White's, *inter alia*, employment, work environment, and pay because of her race and sex, and in retaliation for Ms. White exercising her rights under federal law, and while doing so created a hostile work environment.

78. Defendant has discriminated against Ms. White because of race, color, sex, and national origin, thereby intentionally engaging in unlawful employment practices prohibited by Title VII.

79. Defendant's conduct was not welcomed by Ms. White, was so severe and pervasive that a reasonable person in Ms. White's position would find Ms. White's environment to be hostile and abusive, and Ms. White subjectively believe her environment to be hostile and abusive as a result of Defendant's conduct.

80. Defendant had actual and constructive knowledge of the conduct described herein, but failed to take any remedial action to put an end to the harassment Ms. White suffered at the hands of her supervisors.

81. The conduct of Ms. White's supervisors created an intimidating, oppressive, hostile, and offensive work environment which interfered with Ms. White's well being.

82. Defendant violated Ms. White's rights by failing to adequately supervise, control, discipline, and/or otherwise penalize the conduct, acts, and failures of Ms. White's supervisors. Defendant failed to comply with his duty to take all reasonable and necessary steps to eliminate the harassing, intimidating, oppressive, hostile, and offensive work environment.

83. As a direct and proximate result of this unlawful conduct, Ms. White has suffered and will continue to suffer irreparable injury, emotional distress, and other compensable damages unless and until this Court grants relief.

84. As a direct and proximate result of this unlawful conduct, Ms. White sustained the damages alleged herein and has suffered anxiety, pain, emotional distress, compensatory damages, and loss of bonus pay, among other things.

SECOND CAUSE OF ACTION
Retaliation Under Title VII

85. Ms. White repeats and realleges each and every allegation as if fully set forth herein.

86. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a) provides that it shall be unlawful employment practice for an employer: “(1) to... discriminate against any of his employees...because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”

87. By the acts and practices described above, Defendants retaliated against Ms. White for her opposition to unlawful discrimination under Title VII., including, *inter alia*, by creating a hostile work environment and failing to provide her with bonuses in violation of Title VII.

88. Defendants acted with malice and reckless indifference to Ms. White’s rights under Title VII.

89. As a direct and proximate result of this unlawful conduct, Ms. White has suffered and will continue to suffer irreparable injury, emotional distress, and other compensable damages unless and until this Court grants relief.

90. As a direct and proximate result of this unlawful conduct, Ms. White sustained the damages alleged herein and has suffered anxiety, pain, emotional distress, compensatory damages, and loss of bonus pay, among other things.

PRAYER FOR RELIEF

WHEREFORE, Ms. White respectfully requests judgment against Defendant as follows:

- (a) Compensatory damages against Defendant for all monetary and non-monetary suffered by Ms. White;
- (b) Punitive damages against Defendant;
- (c) Injunctive and declaratory relief ordering Defendant to refrain from engaging in discrimination, retaliation, unfair labor practices, and all other conduct complained of herein;
- (d) Prejudgment interest on all amounts due;
- (e) Reasonable attorney's fees and costs; and
- (f) Such other and further relief as this Court deems just and proper.

Dated: New York, New York
February 17, 2021

By: /s/
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